

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	MDL No. 1456
AVERAGE WHOLESALE PRICE)	Master File No. 01-12257-PBS
LITIGATION)	(Original Central District of California
)	No. 03-CV-2238)
THIS DOCUMENT RELATES TO:)	Judge Patti B. Saris
State of California, <i>ex rel.</i> Ven-A-Care v.)	
Abbott Laboratories, Inc., <i>et al.</i>)	
CASE #: 1:03-cv-11226-PBS)	
)	

CASE MANAGEMENT ORDER NO. 18

December 13, 2005

Saris, U.S.D.J.

WHEREAS, Plaintiff State of California and Ven-A-Care of the Florida Keys, Inc. (collectively, "Plaintiffs") filed their First Amended Complaint In Intervention ("First Amended Complaint") on August 25, 2005; and

WHEREAS, Plaintiffs and those defendants that have been served with process as of the date of the submission of this Order to the Court (the "Served Defendants") have reached an agreement on a briefing schedule for Served Defendants to file responsive pleadings or otherwise move as detailed below;

NOW THEREFORE, it is ORDERED, as follows:

1. No party subject to this Order waives any jurisdictional, service of process, or other defense. This Order shall not have the effect of making any entity a party to this action unless it has been named, served, and added to this action in accordance with the Federal Rules of Civil Procedure or other orders of this Court. No party waives any rights under the Federal Rules governing joinder. This Order is made without prejudice to the right of any party to seek

severance of any claim or action, or otherwise seek individual or distinct treatment of any claim or issue.

2. On or before January 17, 2006, the Served Defendants shall file and serve a consolidated brief of not longer than 40 pages in support of a motion to dismiss all or part of the First Amended Complaint. At the same time, individual Served Defendants may file and serve separate briefs of not longer than 5 pages relating specifically to issues unique to each of them.

3. Within 45 days from the date of electronic service of the Served Defendants' briefs in support of the motion to dismiss, Plaintiffs shall file and serve a consolidated brief of not longer than 40 pages in opposition to the Served Defendants' motion to dismiss all or part of the First Amended Complaint. At the same time, Plaintiffs will be entitled to file and serve briefs of not longer than 5 pages each in response to any Served Defendant-specific brief.

4. Within 30 days from the date of electronic service of Plaintiffs' brief in opposition to the motion to dismiss, the Served Defendants shall file and serve a consolidated reply brief of not longer than 20 pages in support of the Served Defendants' motion to dismiss all or part of the First Amended Complaint. At the same time, individual Served Defendants will be entitled to file and serve separate reply briefs of not longer than 3 pages relating specifically to issues unique to each of them.

5. Within 15 days from the date of electronic service of the Served Defendants' reply brief in support of the Served Defendants' motion to dismiss, Plaintiffs shall file a consolidated sur-reply(s) of not longer than 15 pages in opposition to the motion to dismiss all or part of the First Amended Complaint. At the same time, Plaintiffs will be entitled to file and serve sur-reply briefs of not longer than 3 pages each in response to any Served Defendant-specific reply briefs.

6. Pending the Court's decision on the motion to dismiss all or part of the First Amended Complaint, Plaintiffs shall have access to all documents previously produced, to date, by the Served Defendants in accordance with CMO 9. In addition, Plaintiffs shall have access to all deposition transcripts that have been generated in MDL 1456. No later than January 17, 2006, Plaintiffs, and all Served Defendants who have not previously done so, shall sign the Protective Order already entered by this Court. This Order shall not prevent any party from seeking document discovery from a non-party to the litigation. However, no other discovery shall be conducted in this case pending the Court's decision. The parties are not required to make the automatic disclosures described in Fed. R. Civ. P. 26(a)(1) until the Served Defendants' motion to dismiss has been adjudicated.

7. The costs of producing copies shall be at commonly available commercial copying prices.



Patti B. Saris
United States District Judge